

July 26, 2017

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: Notice of Ex Parte, GN Docket No. 12-268, MB Docket No. 15-146**

Dear Ms. Dortch:

As a result of the recent broadcast spectrum incentive auction, 84 megahertz of television spectrum was repurposed for both licensed and unlicensed uses and generated \$19.3 billion in revenue, which was distributed among broadcasters voluntarily relinquishing spectrum rights, the repacking reimbursement fund, FCC administration costs, and the U.S. Treasury.

Microsoft declined to participate in this auction, yet now requests free broadcast spectrum nationwide, purportedly to accelerate the buildout of rural broadband service but practically to also secure highly valuable spectrum in congested urban markets, without payment to the public, to broadcasters, or to anyone else.

This request is without precedent and without merit. It is an affront to the Commission's painstaking work to balance the needs of the public, broadcasters, and wireless service providers in the auction and repacking processes. And it would be potentially devastating to public television and its viewers in this country.

In order to comply with Microsoft's request, hundreds of TV translators that have to relocate to new frequencies to accommodate a smaller broadcast core may very well be forced off the air altogether. This number includes hundreds of public television translators that often

offer hard-to-reach communities their only television programming and emergency alerts – and all of this dislocation and massive inconvenience would occur for the sake of accommodating Microsoft’s breathtaking proposal for access to additional free spectrum in the immediate aftermath of a \$19.3 billion auction in which Microsoft chose not to participate.

Nothing about this proposal is in the public interest, and the Commission should reject it outright.

The debate over allocation between licensed and unlicensed broadband, which was thoroughly discussed and decided in Congress, led to the decisions reflected in the language of the Spectrum Act. The FCC implemented this legislative compromise by allocating 70 MHz for licensed use and 14 MHz for unlicensed use. There is no need to revisit that careful balancing of interests, represented in the new band plan established in April, 2017, after years of deliberations. There is no provision within the Spectrum Act or in the broader Communications Act that authorizes the FCC to subjugate the rights of the primary users licensed to the band – broadcast licensees – to secondary and unlicensed users. Microsoft’s claims that opening the reserved spectrum to support white space devices will induce no harm to broadcasters is simply not true. There is a reason this spectrum was reserved for broadcast purposes, and that reason remains compelling.

Public television stations and their translators serve 97 percent of the population in our states and territories. Our stations and translators serve many very rural, hard-to-reach areas in our country and provide critical services to the public in those areas – services that these communities rely upon and that should not be jeopardized by Microsoft’s proposal. These communications lifelines in rural America are fully as important as the services Microsoft

proposes to provide, as the Commission and the Congress have consistently found, and the primacy of these broadcast licensees must not be eroded.

America's Public Television Stations urge the Commission not to grant access to additional free spectrum to Microsoft. Broadcasters and wireless providers that did participate in the spectrum auction are fully capable of serving rural America without Microsoft's intervention. The award of free spectrum would further congest the broadcast spectrum, where hundreds of existing public television translators are hoping to repack. Microsoft's request is not the public interest, would wreak havoc on the free over-the-air service provided by public broadcasters to the communities they serve across rural America, and should be rejected.

Submitted by,

/s/ Lonna Thompson  
Lonna Thompson  
Executive Vice President, Chief Operating Officer  
and General Counsel  
AMERICA'S PUBLIC TELEVISION STATIONS  
2100 Crystal Drive, Suite 700  
Arlington, VA 22202  
Tel: 202-654-4200 [lthompson@aptv.org](mailto:lthompson@aptv.org)